THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

W.P.No.10660 of 1996

ORDER:

On a complaint submitted by the petitioner herein, the Special Deputy Collector (Tribal Welfare), Rampachodavaram, the 2nd respondent herein, initiated *suo motu* proceedings, as L.T.R.P. No.2 of 1991, under the A.P. Scheduled Areas Land Transfer Regulation, 1959 (for short 'the Regulation'), against the respondents 3 to 6 . The petitioner herein was arrayed as petitioner in L.T.R.P.No.2 of 1991. Ultimately, through order dated 24-06-1994, the 2nd respondent dismissed the case. Petitioner states that he was not served with any copy of the order and, as soon as he obtained it, he filed an appeal before the Agent to Government, the 1st respondent, which was numbered as C.M.A.No.30 of 1995. To be on safe side, the petitioner filed C.M.P.No.25 of 1995, to condone the delay in presenting the appeal. Through his orders dated

18-12-1995, the 1st respondent dismissed the application for condonation of delay, after undertaking discussion on the merits of the matter. The same is challenged in this writ petition.

Learned counsel for the petitioner submits that the proceedings before the 2nd respondent were *suo motu* in nature, and that the petitioner was not furnished with the copy of the order dated 24-06-1994. He further contends that the appeal was preferred, by him, hardly within few months, and despite the same, the 1st respondent rejected the application for condonation of delay.

Learned Government Pleader for Social Welfare and learned counsel for the 3rd respondent, on the other hand, submit that the petitioner did not pursue the proceedings with the required amount of promptitude.

The petitioner is a schedule tribe. He is not conversant with the procedure in Courts. With an intention to help the petitioner, the Special Deputy Tahsildar, Rajavommangi, submitted a complaint before the 2nd respondent, and the latter, in turn, took up the proceedings under Regulation 1 of 1959. The L.T.R.P.No.2 of 1991 was dismissed on 24-06-1994. However, the petitioner was not furnished a copy of the order. It was in this context, that he approached the 2nd respondent, and

ultimately in the month of May 1995, he was issued a copy of the order.

The petitioner preferred an appeal before the 1st respondent, soon after he obtained the copy of the order. The appeal was numbered as C.M.A.No.30 of 1995. After referring to the facts of the case, the 1st respondent dismissed the application for condonation of delay, with the following observation:

> "Upon perusing the affidavit filed by the Appellant and upon perusing the counter affidavit filed by the 1st respondent and upon hearing the arguments of both the Advocates, I do not see any reason to consider the condonation of delay and the Advocate for petitioner did not explain the day to day delay with proper reasons.
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> Accordingly, the delay condonation petition, on appeal, is rejected and the appeal is therefore dismissed at the admission stage".

This hardly constitutes the valid and proper exercise of power, particularly, in the context of protecting the rights of tribals. The reasons furnished by the petitioner were sufficient, even for condonation of delay, in regular civil proceedings, in non-tribal areas. When the Legislation has taken, the trouble of framing separate Regulations and creating special machinery,
for protection of the rights of the proceedings, the respondents 1 and 2 ought to have acted, in a more reasonable and practical manner. The fact, that the petitioner was not a contesting party, and the proceedings were *suo motu* in nature; was not at all adverted to. The allegation of the petitioner, that he was not served with a copy of the order for about one year; remained unrebutted.

For the foregoing reasons, writ petition is allowed, and the impugned order is set aside; and the delay, in presentation of the appeal, stands condoned. The 1st respondent shall take up the C.M.A.No.30 of 1995, for hearing, after issuing notice to the contesting parties. There shall be no order as to costs.

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L. NARASIMHA REDDY, J.

Dt.27-02-2006

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